

CRM-M-45620-2024

2024.PHHC.153657



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45620-2024
Date of decision: 21.11.2024

AshaPetitioner.

Versus

State of HaryanaRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Manoj Tanwar, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

.....

SANJIV BERRY, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure (483 of BNSS) for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
121	20.02.2024	20(b)(ii)C, 29 of the NDPS Act	City Rohtak, District Rohtak, Haryana

2. Heard.
3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner is a lady, aged about 32

CRM-M-45620-2024

2024.PHHC.153657



years, having two children, with the youngest son aged 04 years, being in custody with her, has been falsely nominated in this case despite the fact that no recovery was effected from her. He contends that as per the case of the prosecution, recovery of contraband was effected from her husband, which he was carrying in a plastic bag in his hand and no contraband was recovered from the possession of the present petitioner. He contends that challan has already been presented after completion of investigation, therefore, no purpose would be served in detaining the petitioner in custody. Hence, the present petition seeking grant of regular bail.

4. *Per contra*, learned State counsel, referring to the reply, filed in the form of affidavit of Deputy Superintendent of Police, District Rohtak, prays for dismissal of the instant petition claiming that the petitioner along with her husband were found keeping in possession of the alleged contraband.

5. After considering the rival contentions and perusing the record, it transpires that the instant case was registered on the basis of secret information to the fact that the husband of the petitioner, namely Rajesh, along with the petitioner were indulging in selling of contraband, accordingly raid was conducted and the husband of the petitioner was found keeping in possession 1.25 kg of heroin kept in a polythene bag in his hand while no recovery was effected from the

CRM-M-45620-2024

2024.PHHC.153857



present petitioner. The petitioner is in custody since 20.02.2024.

6. Admittedly, after completion of investigation, challan has already been presented in the Court, wherein it is pending trial. A perusal of the reply submitted by the State would reveal that no recovery of contraband had been effected from the present petitioner and it is specifically mentioned therein that from the polythene envelope held by her husband, namely Rajesh, recovery of contraband had been effected. The petitioner is not having any criminal antecedents. The prosecution has cited 16 witnesses in this case and till date none has been examined and the conclusion of trial to ascertain the criminal liability, if any, of the petitioner will take sufficient long time, therefore, that no purpose would be served in detaining the petitioner in custody any longer to face the incarceration. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on her furnishing surety bonds/bail bonds to the satisfaction of learned Trial Court/Duty Magistrate.

7. The petitioner shall give the undertaking that she will not leave the country without prior permission of the Court; will regularly appear before the learned Trial Court on each and every date; in case of some exigency, she will seek prior permission of the concerned

CRM-M-45620-2024

2024.PHH.C.153657



Court qua her exemption to appear on the date fixed and she will not tamper with evidence of prosecution in any manner.

8. It is further made clear that in case the petitioner is found involved in any case under the NDPS Act, after her release on bail, it will be open for the prosecution to move an application for cancellation of her bail in accordance with the law and anything contained here-in-above shall not be construed to be an expression of opinion on the merits of the case.

9. Petition stands allowed.

10. Pending miscellaneous application, if any, also stands disposed of.

21.11.2024
preeti

(SANJIV BERRY)
JUDGE

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |